

UNITED STATES DISTRICT COURT

EASTERN

District of PENNSYLVANIA

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE

CHEMICAL EQUIPMENT LABS,
INC.

Case Number: DPAE2:11-cr-00037

USM Number:

Ronald Sarachan, Esquire
Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s) 1
- ☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.
- ☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
33:1319(c)(1) 1311(a)	Negligent discharge of pollutant without a permit	4/25/07	1

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) _____
- ☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

2/17/11

Date of Imposition of Judgment

Harvey Bartle III
Signature of Judge

HARVEY BARTLE III, U.S.D.C.J.

Name and Title of Judge

February 18, 2011
Date
2/18/11 Cert Copies for Counsel
AVCA Dist. Probation Pretrial
FLU Discal

DEFENDANT: CHEMICAL EQUIPMENT LABS, INC.
CASE NUMBER: 11-37

PROBATION

The defendant is hereby sentenced to probation for a term of: 4 years with specific conditions and requirements as described in Attachment A.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☐ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 125.	\$ 75,000.	\$ 0

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
SEE PARAGRAPH #4 OF ATTACHMENT A.			

TOTALS	\$ <u>2,000.</u>	\$ <u>2,000.</u>
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X Restitution amount ordered pursuant to plea agreement \$ 2,000.

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 125. due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties: \$37,500 criminal fine due and payable on or before February 23, 2011, with balance of \$37,500 due and payable on or before February 16, 2012.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL NO. 11-37
	:	
CHEMICAL EQUIPMENT LABS, INC.	:	

ATTACHMENT A TO JUDGMENT AND COMMITMENT ORDER

The defendant, Chemical Equipment Labs, Inc., is hereby ORDERED to comply with the following terms and conditions of probation:

1. The defendant shall develop and implement an Environmental Compliance and Ethics Plan, described as follows, with said plan to be reviewed and approved by the U.S. Probation Office and the U.S. Environmental Protection Agency prior to implementation:

a. All current CEL employees will be required to read the CEL environmental compliance manual by the time of sentencing and the manual must be read by new employees hired during the period of probation within 10 days of hiring, with documentation of such activity kept for five years. A copy of the manual will be kept at the CEL main office. The manual should cover general areas of federal, state and local environmental regulations, including Clean Water Act permit and pretreatment requirements, management of solid and hazardous waste; regulatory agency notifications in case of spills, releases, emissions or discharges of pollutants into the environment; dealings with regulatory inspectors and personnel, and the importance of accuracy, timeliness and honesty in reporting to regulatory agencies all information required by environmental laws and regulations;

b. CEL will assure that there is a system in place which requires its employees to report environmental noncompliance without fear of retribution;

c. CEL will set up a system for providing systematic training to new employees and refresher training for other employees on federal, state and local environmental regulations. Such training will be provided by independent contractors during the first three years of probation;

d. CEL will identify a supervisor with direct responsibility for environmental compliance and ensure that such supervisor attends at least 40 hours of environmental training per year;

e. CEL will have an independent environmental consultant conduct an annual environmental audit of its facility in Marcus Hook, Pennsylvania, with the findings, any proposed corrective actions and a schedule for correction reported to the United States Attorney's Office, the Probation Office, the U.S. Environmental Protection Agency ("EPA"), the Pennsylvania Department of Environmental Resources ("PADEP") Southeastern Office in Norristown, Pennsylvania, and the Delaware County Regional Waste Water Authority ("DELCORA") during the period of probation. The first audit will be performed no later than 180 days after sentencing;

f. CEL will submit within 60 days of entry of the guilty plea documentation identifying the consultant, a copy of the contract between CEL and the consultant, which details the scope of the audit to be performed and a schedule of interim and final deadlines for the first annual audit. Similar information will be submitted at least 45 days prior to performance of successive annual audits;

g. The consultant will follow generally accepted environmental auditing techniques, procedures and policies in designing and executing the audits, including the reporting of deficiencies and corrective measures. The audits will cover all regulated environmental matters regardless of whether regulation occurs at the federal, state or local level;

h. CEL will notify the U.S. Probation Office, U.S. Attorney's Office, the EPA, the PADEP and DELCORA at least 10 days prior to commencement of each annual audit. Each agency will have the right to have personnel accompany the consultant during all or part of each annual audit;

i. CEL will have the consultant prepare and furnish to the Probation Office, the U.S. Attorney's Office, the EPA, PADEP and DELCORA, a final report on its findings and recommendations at the same time the consultant provides it to CEL; and

j. CEL will submit a written report to the Probation Office, the U.S. Attorney's Office, the EPA, PADEP and DELCORA no later than 30 days after receiving the final consultant's report for each audit, detailing what action CEL has taken and intends to take to correct any noted deficiencies and regulatory violations.

2. The defendant must inform the Probation Office and the U.S. Attorney's Office if it is cited by any federal or state regulatory agency for safety, health or environmental violations while on probation. The defendant understands that the United States may seek, and the Court may impose, additional sanctions, including additional fines, should the defendant be found to be in violation of probation.

3. The defendant will publish advertisements at its own cost as authorized by Section 8D1.4(a) of the Sentencing Guidelines in an appropriate trade journal and local newspaper describing the defendant's conduct, its conviction and sentence, steps taken to prevent reoccurrence and how other regulated entities can avoid similar prosecution. The language for the advertisements must be approved by the U.S. Probation Office and the United States prior to publication. The advertisements must be published within two months of sentencing, and the defendant must provide a copy of the published advertisements and receipts for costs of publication to counsel for the United States and the Probation Office within 15 days of publication.

4. The defendant shall repair at its own cost the \$2,000 worth of physical damage to the Delaware County Regional Water Quality Control Authority's sanitary sewer system, which included damage to concrete and pipe outside defendant's

facility. Payment shall be directed to the attention of Joseph Salvucci, Executive
Director, P.O. Box 999 Chester PA 19016-0999, (610) 876-5523 ext #112.

BY THE COURT:


HONORABLE HARVEY BARTLE III
Chief Judge, United States District Court